

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON**

**IRINA KOSHILKA,**

Plaintiff,

v.

**K1 SPEED, INC.,**

Defendant.

Case No. 3:21-cv-01552-JR

**ORDER**

**IMMERGUT, District Judge.**

On February 25, 2022, Magistrate Judge Jolie A. Russo issued her Findings and Recommendation (“F&R”). ECF 36. The F&R recommends that this Court grant Plaintiff’s motion to remand to state court, ECF 25, and deny Defendant’s motion to set aside the default judgment, ECF 5, and motion to challenge Plaintiff’s writ of garnishment, ECF 11. No party filed objections. For the following reasons, this Court ADOPTS Judge Russo’s F&R.

**STANDARDS**

Under the Federal Magistrates Act (“Act”), as amended, the court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). If a party objects to a magistrate judge’s F&R, “the court shall make a de

novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.* But the court is not required to review, de novo or under any other standard, the factual or legal conclusions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149–50 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc). Nevertheless, the Act “does not preclude further review by the district judge, *sua sponte*” whether de novo or under another standard. *Thomas*, 474 U.S. at 154.

## **CONCLUSION**

No party having filed objections, this Court has reviewed the F&R and accepts Judge Russo’s conclusions. The F&R, ECF 36 is adopted in full. Because removal was untimely under 28 U.S.C. § 1446(b)(1) Defendant’s motions seeking to dissolve the state court’s default judgment and writ of garnishment should be denied, and this case should be remanded to state court. Thus, this Court GRANTS Plaintiff’s motion to remand to state court, ECF 25, and DENIES Defendant’s motion to set aside the default judgment, ECF 5, and Defendant’s motion to challenge Plaintiff’s writ of garnishment, ECF 11. Pursuant to 28 U.S.C. § 1447(c), this case is REMANDED to the Washington County Circuit Court in the State of Oregon.

## **IT IS SO ORDERED.**

DATED this 7th day of April, 2022.

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/s/ Karin J. Immergut  
Karin J. Immergut  
United States District Judge